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MEMO ENDORSED

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VIA ECF

Hon. Valerie E. Caproni
United States District Court
Southern District of New York
Thurgood Marshall Courthouse
40 Foley Square, New York, NY 10007

Re: *Kane, et al v. de Blasio, et al*
Docket 21 civ 7863

Dear Judge Caproni,

As requested, I hereby respectfully inform the Court that a merits panel at the Second Circuit has issued a final decision and the interlocutory appeal is concluded. The decision is in the docket at No. 77 and attached hereto for the Court's convenience.

My understanding is that this matter is now no longer stayed, since the interlocutory appeal has concluded. By this letter, I object to counsel's attempt to block normal proceedings now that the matter is again before the District Court. They cite no law or precedent that would allow such a blatant attempt to prohibit access to the courts, which my clients have a right to under the United States Constitution, among other sources of protection.

Moreover, in response to Defendants' characterization of Rule 15, I respectfully note that Defendants are in error. Rule 15(b) provides Plaintiffs the right to amend as of course within 21 days of receiving a responsive pleading as an alternative to 15(a). As no responsive pleading has been filed, there is no basis for objecting to an amendment as of course. To the extent that the Court wishes to vacate the amended pleading that was filed during the pendency of the appeal, Plaintiffs do not waive their right to refile now that the stay has been lifted. They do not consent to wait until the DOE has conducted their fresh "Title VII compliant" review.

Respectfully Submitted,

/s/ Sujata S. Gibson
Counsel for the Plaintiffs

Cc: All counsel via ECF

The stay in this case is hereby CONTINUED until the Second Circuit issues a mandate remanding the case to the undersigned or the parties' report to this Court within two weeks of the conclusion of Plaintiffs' proceedings before the citywide panel, whichever is later. The Court will address the issue of Plaintiffs' first amended complaint once the stay has been lifted.

SO ORDERED.

A handwritten signature in blue ink, appearing to read "Valerie Caproni", is written over the printed name.

Date: November 30, 2021

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE